

AMENDED IN SENATE MARCH 21, 2011

SENATE BILL

No. 672

Introduced by Senator Fuller

February 18, 2011

An act to amend Section 365.1 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 672, as amended, Fuller. Electricity: rates: interregional parity.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

Existing law, relative to electrical restructuring, requires the commission to authorize and facilitate direct transactions between electricity suppliers and retail end-use customers. Existing law, enacted during the energy crisis of 2000–01, authorized the Department of Water Resources, until January 1, 2003, to enter into contracts for the purchase of electricity, and to sell electricity to retail end-use customers at not more than the department's acquisition costs and to recover those costs through the issuance of bonds to be repaid by ratepayers. That law suspended the right of retail end-use customers, other than community choice aggregators and a qualifying direct transaction customer, as defined, to acquire service through a direct transaction until the Department of Water Resources no longer supplies electricity under that law. Existing law continues the suspension of direct transactions except as expressly authorized, until the Legislature, by statute, repeals the suspension or otherwise authorizes direct

transactions. Existing law requires the commission to authorize direct transactions for nonresidential end-use customers subject to a reopening schedule that will phase in over a period of not less than 3 years and not more than 5 years, and is subject to an annual maximum allowable total kilowatthour limit established, as specified, for each electrical corporation.

This bill would ~~state the intent of the Legislature to enact legislation to require interregional parity in electrical rates~~ restrict the annual maximum allowable total kilowatthour limit for permissible direct transactions so that it is applicable only to nonresidential for-profit end-use customers and is not applicable to not-for-profit end-use customers.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 365.1 of the Public Utilities Code is
2 amended to read:

3 365.1. (a) Except as expressly authorized by this section, and
4 subject to the limitations in subdivisions (b) and (c), the right of
5 retail end-use customers pursuant to this chapter to acquire service
6 from other providers is suspended until the Legislature, by statute,
7 lifts the suspension or otherwise authorizes direct transactions. For
8 purposes of this section, “other provider” means any person,
9 corporation, or other entity that is authorized to provide electric
10 service within the service territory of an electrical corporation
11 pursuant to this chapter, and includes an aggregator, broker, or
12 marketer, as defined in Section 331, and an electric service
13 provider, as defined in Section 218.3. “Other provider” does not
14 include a community choice aggregator, as defined in Section
15 331.1, and the limitations in this section do not apply to the sale
16 of electricity by “other providers” to a community choice
17 aggregator for resale to community choice aggregation electricity
18 consumers pursuant to Section 366.2.

19 (b) The commission shall allow individual retail nonresidential
20 end-use customers to acquire electric service from other providers
21 in each electrical corporation’s distribution service territory, ~~up~~
22 to. ~~Nonresidential for-profit end-use customers shall be subject to~~
23 a maximum allowable total kilowatthours annual limit. The

1 maximum allowable annual limit *for nonresidential for-profit*
2 *end-use customers* shall be established by the commission for each
3 electrical corporation at the maximum total kilowatthours supplied
4 by all other providers to distribution customers of that electrical
5 corporation during any sequential 12-month period between April
6 1, 1998, and the effective date of this section. *No limit shall apply*
7 *for not-for-profit end-use customers*. Within six months of the
8 effective date of this section, or by July 1, 2010, whichever is
9 sooner, the commission shall adopt and implement a reopening
10 schedule that commences immediately and will phase in the
11 allowable amount of increased kilowatthours over a period of not
12 less than three years, and not more than five years, raising the
13 allowable limit of kilowatthours supplied by other providers in
14 each electrical corporation's distribution service territory from the
15 number of kilowatthours provided by other providers as of the
16 effective date of this section, to the maximum allowable annual
17 limit for that electrical corporation's distribution service territory.
18 The commission shall review and, if appropriate, modify its
19 currently effective rules governing direct transactions, but that
20 review shall not delay the start of the phase-in schedule.

21 (c) Once the commission has authorized additional direct
22 transactions pursuant to subdivision (b), it shall do both of the
23 following:

24 (1) Ensure that other providers are subject to the same
25 requirements that are applicable to the state's three largest electrical
26 corporations under any programs or rules adopted by the
27 commission to implement the resource adequacy provisions of
28 Section 380, the renewables portfolio standard provisions of Article
29 16 (commencing with Section 399.11), and the requirements for
30 the electricity sector adopted by the State Air Resources Board
31 pursuant to the California Global Warming Solutions Act of 2006
32 (Division 25.5 (commencing with Section 38500) of the Health
33 and Safety Code). This requirement applies notwithstanding any
34 prior decision of the commission to the contrary.

35 (2) (A) Ensure that, in the event that the commission authorizes,
36 in the situation of a contract with a third party, or orders, in the
37 situation of utility-owned generation, an electrical corporation to
38 obtain generation resources that the commission determines are
39 needed to meet system or local area reliability needs for the benefit
40 of all customers in the electrical corporation's distribution service

1 territory, the net capacity costs of those generation resources are
2 allocated on a fully nonbypassable basis consistent with departing
3 load provisions as determined by the commission, to all of the
4 following:

5 (i) Bundled service customers of the electrical corporation.

6 (ii) Customers that purchase electricity through a direct
7 transaction with other providers.

8 (iii) Customers of community choice aggregators.

9 (B) The resource adequacy benefits of generation resources
10 acquired by an electrical corporation pursuant to subparagraph (A)
11 shall be allocated to all customers who pay their net capacity costs.
12 Net capacity costs shall be determined by subtracting the energy
13 and ancillary services value of the resource from the total costs
14 paid by the electrical corporation pursuant to a contract with a
15 third party or the annual revenue requirement for the resource if
16 the electrical corporation directly owns the resource. An energy
17 auction shall not be required as a condition for applying this
18 allocation, but may be allowed as a means to establish the energy
19 and ancillary services value of the resource for purposes of
20 determining the net costs of capacity to be recovered from
21 customers pursuant to this paragraph, and the allocation of the net
22 capacity costs of contracts with third parties shall be allowed for
23 the terms of those contracts.

24 (C) It is the intent of the Legislature, in enacting this paragraph,
25 to provide additional guidance to the commission with respect to
26 the implementation of subdivision (g) of Section 380, as well as
27 to ensure that the customers to whom the net costs and benefits of
28 capacity are allocated are not required to pay for the cost of
29 electricity they do not consume.

30 (d) (1) If the commission approves a centralized resource
31 adequacy mechanism pursuant to subdivisions (h) and (i) of Section
32 380, upon the implementation of the centralized resource adequacy
33 mechanism the requirements of paragraph (2) of subdivision (c)
34 shall be suspended. If the commission later orders that electrical
35 corporations cease procuring capacity through a centralized
36 resource adequacy mechanism, the requirements of paragraph (2)
37 of subdivision (c) shall again apply.

38 (2) If the use of a centralized resource adequacy mechanism is
39 authorized by the commission and has been implemented as set
40 forth in paragraph (1), the net capacity costs of generation resources

1 that the commission determines are required to meet urgent system
2 or urgent local grid reliability needs, and that the commission
3 authorizes to be procured outside of the Section 380 or Section
4 454.5 processes, shall be recovered according to the provisions of
5 paragraph (2) of subdivision (c).

6 (3) ~~Nothing in this~~ *This subdivision supplants does not supplant*
7 the resource adequacy requirements of Section 380 or the resource
8 procurement procedures established in Section 454.5.

9 (e) The commission may report to the Legislature on the efficacy
10 of authorizing individual retail end-use residential customers to
11 enter into direct transactions, including appropriate consumer
12 protections.

13 ~~SECTION 1. It is the intent of the Legislature to enact~~
14 ~~legislation to require interregional parity in electrical rates.~~